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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KYLE JENKINS, :

Petitioner, : 11 Civ. 6806 (PAE)

-against- : **MEMORANDUM AND ORDER**

WILLIAM A. LEE, Superintendent, :

Respondent. :

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DEBRA FREEMAN, United States Magistrate Judge:

By submission to this Court dated May 30, 2012, *pro se* Petitioner Kyle Jenkins (“Petitioner”) has requested that the Court stay this habeas corpus proceeding and hold his Petition in abeyance, so that he may exhaust certain claims in the state courts. Petitioner, however, has not informed the Court of the number or nature of his unexhausted claims. It is also unclear from his submission whether the claims at issue have already been raised in the Petition in this action or would require the Petition to be amended. Further, Petitioner does not explain whether he has good cause for failing to exhaust his claims, and he also fails to inform this Court whether these claims are now pending before the state courts at any level.¹

Accordingly, Petitioner’s “Request for an Abeyance” (Dkt. 13) is denied, without prejudice to Petitioner’s re-filing a motion for a stay and abeyance that describes, with specificity, the unexhausted claims at issue, and setting forth the reasons why, under *Rhines v.*

¹By letter dated June 12, 2012, counsel for Respondent wrote to this Court in response to Petitioner’s submission, stating that Petitioner has now filed a motion in the state court, seeking to vacate his conviction on the grounds that he was denied the effective assistance of counsel, that the prosecutor engaged in misconduct, that Petitioner’s rights against double jeopardy and under the Fourth Amendment were violated, and that newly discovered evidence warrants the grant of a new trial. (See Letter to the Court from Karen Schlossberg, Esq., dated June 12, 2012.) While the Court assumes that some or all of these claims are the claims that Petitioner seeks to exhaust prior to raising them in this Court, Petitioner has not explained this.

Weber, 125 S. Ct. 1528 (2005), a stay would be appropriate in this case. In particular, Petitioner should explain why he believes that his unexhausted claims have merit, and why he failed to present them to the state courts prior to filing this action.

Dated: New York, New York
June 22, 2012

SO ORDERED


DEBRA FREEMAN
United States Magistrate Judge

Copies to:

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